

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DANNY RAY CLINE, #491760

§

VS.

§

CIVIL ACTION NO. 6:05cv235

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Harry W. McKee, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed because the Petitioner failed to obtain permission from the Fifth Circuit to file a second or successive petition regarding the restoration of good time credits. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner thereto, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and that the objections by the Petitioner are without merit. The Report correctly noted that the Petitioner sought the restoration of good time credits in two previous petitions filed in this Court. The present petition simply added new arguments for the restoration of the good time credits in question. The petition should be dismissed because the Petitioner has not satisfied the requirement of obtaining permission from the Fifth Circuit to file a second or successive petition. 28 U.S.C. § 2244(b)(3)(A). Thus the Court

hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus is **DISMISSED** without prejudice. The Petitioner may refile the petition only if he is authorized by the Fifth Circuit to file a second or successive petition. It is further

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

**So ORDERED and SIGNED this 14th day of November, 2005.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**